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September 3, 2008

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VIA FACSIMILE

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Honorable Colleen McMahon
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Room 640
New York, NY 10007

WRITER'S E-MAIL ADDRESS
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Re: Fershtadt v. Verizon Communications Inc., et al.,
No. 07-CV-6963

Dear Judge McMahon:

This firm represents defendants Verizon Communications Inc. and the Plan for Group Insurance in the above matter, and writes on behalf of all parties in this action to request that the Court enter the schedule proposed below in lieu of holding the initial pretrial conference currently scheduled for September 5 (this Friday) at 11:30 am.

The background to this request is as follows. Counsel for all parties convened today to discuss a proposed pre-trial schedule and other pre-trial issues as required by Fed. R. Civ. P. 26. The parties are in general agreement that, since the only remaining claim in the case is a claim for benefits under the terms of an ERISA plan pursuant to ERISA § 502(a)(1)(B), the case may be amendable for disposition on the administrative record. Accordingly, the parties have agreed to the exchange of the administrative record by September 30, 2008.

After plaintiff has had an opportunity to review the record, the parties will then discuss whether additional discovery is necessary, or whether the case is ready for adjudication on the administrative record. By October 31, 2008, the parties will present to Your Honor either a schedule for completing discovery or a schedule for completing summary judgment.

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Accordingly, the parties believe that the Rule 16 conference currently scheduled for September 5, 2008 is unnecessary at this time. Instead, the parties request that the Court "so order" the following schedule:

September 30, 2008

Exchange of administrative record, and Rule 26 disclosures provided by plaintiff, the Verizon and Metlife defendants

October 31, 2008

Submission of final pre-trial schedule to Court, including discovery (if any) and briefing of dispositive motions

→ rarely allowed

We thank Your Honor for attending to this matter.

Sincerely,



Karen M. Wahle
of O'MELVENY & MYERS LLP

cc: Michael Hiller, Weiss & Hiller PC
Patrick W. Begos, Begos Horgan & Brown LLP
Allan Marcus, Lester Schwab Katz & Dwyer, LLP

9/9/08

This is OK as long as the motion is fully briefed by January 16, 2009

